

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
EASTERN DIVISION

2006 JAN 30 A 9:35

VOLANTE JONES, #165217
PLAINTIFF,

VS.

CIVIL ACTION NO. 3:05-CV-1050-T

COURT CLERK OF CHAMBERS
COUNTY,
DEFENDANT.

MOTION FOR A NINETY (90) DAY CONTINUANCE
PURSUANT TO RULE 56(F), FEDERAL RULES OF
CIVIL PROCEDURE AND ORDER THAT CLERK PRO-
VIDE COPY OF ORIGINAL COMPLAINT FILED

COMES NOW THE PLAINTIFF VOLANTE JONES (HEREINAFTER JONES)
AND MOVES THIS HONORABLE COURT PURSUANT TO RULE 56(F),
FEDERAL RULES OF CIVIL PROCEDURE (HEREINAFTER FRCP) WITH
HIS MOTION FOR A NINETY (90) DAY CONTINUANCE PURSUANT TO
RULE 56(F), FEDERAL RULES OF CIVIL PROCEDURE AND ORDER
THAT CLERK PROVIDE COPY OF ORIGINAL COMPLAINT FILED
AND STATES THE FOLLOWING GROUNDS:

STATEMENT OF THE CASE AND FACTS

1. ON THE _____ DAY OF _____, 2005, JONES FILED A
REQUEST TO MR. CHARLES W. STORY, CLERK OF THE CHAMBERS
COUNTY CIRCUIT COURT. THIS REQUEST CONCERNED A COPY OF

ALL STATEMENTS FOR AND AGAINST PLAINTIFF, INDICTMENT, PLEA AGREEMENT, COLLOQUY AND EVERYTHING ELSE RELATED TO THIS ILLEGAL SENTENCE AND CONVICTION.

2. ON THE ____ DAY OF JUNE, 2005, SINCE NOT RECENTLY RESPONSE PLAINTIFF FILED PETITION FOR WRIT OF HABEAS CORPUS IN THE ALABAMA COURT OF CRIMINAL APPEALS TO COMPEL DEFENDANT TO FORWARD REQUESTED MATERIALS. (LR 04-1921)

3. ON THE ____ DAY OF JULY, 2005, JONES' PETITION WAS DENIED. ON THE 6TH DAY OF JULY, 2005, JONES FILE PETITION FOR WRIT OF HABEAS CORPUS IN THE ALABAMA SUPREME COURT. (1041502).

4. ON THE 1ST DAY OF AUGUST, 2005, JONES' PETITION WAS DENIED.

5. ON THE ____ DAY OF _____, 2005, JONES FILED THIS INSTANT COMPLAINT ALLEGING THAT HE WAS DENIED ACCESS TO THE COURT BY THE DEFENDANT'S ACTIONS IN VIOLATION OF BODDUS V. SMITH, 430 US 817, 52 LEd 2d 72, 97 S Ct 1491 (1977).

6. ON THE 17TH DAY OF JANUARY, 2006, DEFENDANT FILES "SPECIAL REPORT" WHICH THE COURT WILL TREAT AS A MOTION FOR SUMMARY JUDGMENT.

7. ON THE 19TH DAY OF JANUARY, 2006, THE COURT ISSUED AN ORDER THAT THE PLAINTIFF FILE RESPONSE ON OR BEFORE THE ____TH DAY OF FEBRUARY, 2006.

8. PURSUANT TO RULE 201(d), FEDERAL RULES OF EVIDENCE JONES HUMBLY PRAYS THIS HONORABLE COURT TAKE JUDICIAL NOTICE OF

THE ENTIRE RECORD IN THIS CAUSE.

ARGUMENT

THE BASIS OF JONES' CLAIM IS THAT THE DEFENDANT HAS DENIED PLAINTIFF ACCESS TO COURT TO CHALLENGE HIS ILLEGAL SENTENCE AND CONVICTION IN VIOLATION OF BOONAS V. SMITH, 430 US 817, 52 LEd 2d 72, 97 S.Ct 1491 (1977).

SINCE THE FILING OF HIS COMPLAINT PLAINTIFF HAS BEEN TRANSFERRED TO W.C. HOLMAN CORRECTIONAL FACILITY. WARDEN GRANT COLLIER HAS CREATED A "CELL DELIVERY" SYSTEM FOR PRISONERS TO RECEIVE BOOKS AND LEGAL MATERIALS IN SEGREGATION. (THE PLAINTIFF IS PRESENTLY IN SEGREGATION).

JANUARY, 2005, THE LEXUS/LEXUS COMPUTER SYSTEM WAS ESTABLISHED AT HOLMAN. BOOKS ARE NO LONGER UPDATED AND PLACED IN THE LAW LIBRARY. SEGREGATED PRISONERS HAVE NO ACCESS WHATSOEVER TO THIS SYSTEM.

THE LAW CLERKS NOR SUPERVISOR ARE PERSONS TRAINED IN THE LAW. CLERKS MERELY PICK UP AND DELIVER BOOKS. THEY ARE NOT ALLOWED TO RENDER "LEGAL ASSISTANCE" AND NO ALTERNATIVE SYSTEM HAS BEEN PUT IN PLACE.

NOT HAVING PHYSICAL ACCESS TO THE LAW LIBRARY'S COMPUTER OR THE LIBRARY IN GENERAL HAS CREATED A SITUATION WHERE THAT JONES DOES NOT KNOW WHAT MATERIALS ARE AVAILABLE OR WHAT TO ASK FOR. NO RESEARCH ASSISTANCE, OR ACCESS TO LAWYERS, PARALEGALS OR OTHER PERSONS TRAINED IN THE LAW

HAS BEEN PROVIDED.

PRESENTLY THIS SITUATION IS BEING CHALLENGED IN THE ESCAMBIA COUNTY CIRCUIT COURT; WRIGHT, et al. v. COLLIER, et al., CV05-269.

IN ADDITION JONES' LEGAL MATERIALS WERE CONFISCATED UPON BEING TRANSFERRED. HIS ORIGINAL COMPLAINT AND THE COURT'S ORDERS WERE NOT RETURNED. (PLAINTIFF'S EXHIBIT A).

THE DEFENDANT ALLEGES THAT HE MAKES THE REQUESTED MATERIALS. JONES MUST BE PROVIDED AN OPPORTUNITY TO CONDUCT DISCOVERY TO AFFORD HIM ADEQUATE ABILITY TO RESPOND.

PLAINTIFF'S FIRST REQUEST FOR PRODUCTION OF DOCUMENT AND/OR ORDER TO DEPARTMENT OF CORRECTIONS IS TO OBTAIN "SIGN IN LOG" FOR JANUARY TO JULY, 2005, WHICH WILL PROVE THAT PLAINTIFF NEVER RECEIVES REQUESTED LEGAL MATERIALS THAT ARE NEEDED TO CHALLENGE HIS ILLEGAL SENTENCE AND CONVICTION. JONES WILL NOT BE ABLE TO RESPOND WITHOUT THIS RELEVANT AND CRUCIAL EVIDENCE.

JONES ALSO NEEDS TIME AFTER HE RECEIVES DISCOVERY EVIDENCE TO RESPOND AS THE COURT HAS ORDERED TO TAKE DEFENDANT'S "SPECIAL REPORT".

JONES ALSO REQUESTS TO RESERVE RIGHT TO AMEND COMPLAINT ONCE DISCOVERY HAS BEEN COMPLETED.

WHEREFORE, FOR THE ABOVE STATED CAUSE JONES HUMBLLY PRAY THAT THIS MOTION BE GRANTED AND ORDER ISSUED,

i.e., THAT CLERK PROVIDE COPY OF ORIGINAL COMPLAINT AND COURT'S ORDERS. ALSO THAT DEPARTMENT OF CORRECTIONS PERSONNEL PROVIDE MAIL, i.e., "SIGN IN LOG" FOR LEGAL MAIL FROM JANUARY, 2005 TO JULY, 2005.

DATED: 1-26-06

Respectfully Submitted,

Volante Jones

VOLANTE JONES

3700 HOLMAN UNIT

#165217 11 M7

ATTMORE, ALABAMA

36503

CERTIFICATE OF SERVICE

I HEREBY CERTIFY THAT ON THIS THE 26 DAY OF JANUARY, 2006, HAVE SERVED A COPY OF MOTION FOR CONTINUANCE UPON THE DEFENDANT'S COUNSEL AT: 11 SOUTH UNION STREET, MONTGOMERY, ALABAMA 36130; ATTORNEY BENJAMIN H. ALBRITTON, POSTAGE PREPAID BY GIVING SAID TO OFFICERS TO BE PLACED IN THE INSTITUTIONAL MAIL BOX.

Volante Jones

VOLANTE JONES